New Jersey Flood Risk Disclosure Law To Take Effect March 20, 2024: Key Actions Sellers and Landlords Need To Take To Comply

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In a move that significantly changes the disclosure requirements for commercial and residential real estate sellers and landlords in New Jersey, Governor Phil Murphy amended N.J.S.A. 46:8-50 and N.J.S.A. 56:8-19.2 (Flood Disclosure Laws or Laws). The Flood Disclosure Laws were passed in July 2023 and go into effect on March 20, 2024.

These Laws were passed primarily in response to the increased severe flooding events in New Jersey and the resultant consequences to both renters and purchasers. Generally, the Laws place the onus upon a seller and landlord to notify a prospective purchaser or tenant of whether the property is located in the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area (100-year floodplain) or Moderate Risk Flood Hazard Area (500-year floodplain). Disclosure of the property's "flooding" history – however minor that may be – is also required. The Laws necessitate research by the seller and landlord prior to disclosure and also the use of specific forms and notices which include the required information to be provided.

Disclosure and notification are mandated prior to the time that a new lease or renewal lease is signed, and prior to the time that a purchaser becomes obligated under a contract for the purchase of the property. Notably, there are penalties if a seller or landlord fails to comply with the Flood Disclosure Laws.

Porzio's dedicated team in our Real Estate, Land Use and Environmental Practice Group can help real estate sellers and landlords in complying with the new Flood Disclosure Laws by March 20, 2024. Contact a member of our team to learn how we can assist with effectively drafting compliant notices and disclosures, exploring potential waivers, and understanding potential remedies in the case of a failure to disclose by the landlord or seller.